

United States District Court

EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

UNITED STATES OF AMERICA

vs.

ANDRE GLOVER

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Case No. 4:06cr20
(Judge Schell/Judge Bush)

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on December 4, 2006 to determine whether the defendant violated his supervised release. The defendant was represented by Denise Benson. The Government was represented by Stevan Buys.

On July 16, 2001, Defendant was sentenced by the Honorable Robert G. James to 62 months imprisonment followed by a 5-year term of supervised release for the offense of Distribution of Cocaine Base. The sentence departed from the guideline range upon motion of the government as a result of his substantial assistance. On May 28, 2004, the defendant completed his period of imprisonment and began serving his supervised term.

On January 3, 2006, the U.S. Probation Officer in the Western District of Louisiana filed a Petition for Warrant or Summons for Offender Under Supervision. On February 6, 2006, jurisdiction of this matter was transferred to the Eastern District of Texas. On November 27, 2006 the U.S. Probation Officer in the Eastern District of Texas filed a First Amended Petition for Warrant or Summons for Offender Under

Supervision. The petition asserted that the Defendant violated the following conditions: (1) the defendant shall not commit another federal, state, or local crime; (2) the defendant shall not illegally possess a controlled substance; (3) the defendant shall refrain from excessive use of alcohol, and shall not purchase, possess, use, distribute, or administer any controlled substance or paraphernalia that relates to such controlled substance, except as prescribed by a physician; (4) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month; and (5) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment.

The petition alleges that Defendant committed the following acts: (1) on August 2, 2006, the defendant was arrested and charged by the San Bernardino Police Department with felony Possession/Purchase of Cocaine Base for Sale and was charged with: Transporting/Selling Narcotic/Controlled Substance, Possess/Purchase Cocaine Base for Sale, Unlawful Use of Identifying Information, and Possess Driver's License/Identification to Commit Forgery; (2) the defendant failed to submit a written monthly report for the months of September, October and November 2005 and the defendant failed to report on October 29, 2005, as instructed in an appointment mailed to him on October 19, 2005; and (3) the defendant failed to report his change of residence as instructed.

Prior to the Government putting on its case, Defendant entered a plea of true to all violations. At the hearing, the Court recommended that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Court revoke Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of twenty-eight (28) months, with no further term of supervised release to follow, as agreed upon by the parties.

Within ten (10) days after receipt of the magistrate judge's report, any party may serve and file written objections to the findings and recommendations of the magistrate judge. 28 U.S.C.A. § 636(b)(1)(C).

Failure to file written objections to the proposed findings and recommendations contained in this report within ten days after service shall bar an aggrieved party from *de novo* review by the district court of the proposed findings and recommendations and from appellate review of factual findings accepted or adopted by the district court except on grounds of plain error or manifest injustice. *Thomas v. Arn*, 474 U.S. 140, 148 (1985); *Rodriguez v. Bowen*, 857 F.2d 275, 276-77 (5th Cir. 1988).

SIGNED this 7th day of December, 2006.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE